

1 DAVID CHIU, State Bar # 189542
City Attorney
2 YVONNE R. MERE, State Bar # 175394
Chief Deputy City Attorney
3 SARA J. EISENBERG, State Bar # 296303
Chief of Complex & Affirmative Litigation
4 JAIME M. HULING DELAYE, State Bar # 270784
JOHN H. GEORGE, State Bar # 292332
5 Deputy City Attorneys
Fox Plaza
6 1390 Market Street, Sixth Floor
San Francisco, CA 94102
7 Telephone: 415.554.3597
jaime.hulingdelaye@sfcityatty.org
8

9 *Attorneys for Plaintiff The People of the State of*
California, acting by and through San Francisco City
10 *Attorney David Chiu*

11 [Additional counsel appear on signature page.]

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION
15

16 THE CITY AND COUNTY OF SAN
FRANCISCO, CALIFORNIA and THE PEOPLE
17 OF THE STATE OF CALIFORNIA, Acting by
and through San Francisco City Attorney DAVID
18 CHIU,

19 Plaintiffs,

20 v.

21 PURDUE PHARMA L.P., et al.

22 Defendants.
23
24
25
26
27
28

Case No. 3:18-cv-07591-CRB

**THE PEOPLE'S REPLY RE: ORDER
TO SHOW CAUSE**

Judge: Honorable Charles R. Breyer

1 The People submit this reply addressing whether the Court should enter an injunction
 2 materially identical to the one entered in the MDL Track Three cases in advance of the abatement
 3 phase of this trial. *See* Doc. 1581. The People believe that such an injunction—or one like it—is
 4 both appropriate and necessary, but respectfully suggest that the Court wait until after the
 5 abatement trial to enter one.

6 From the moment the People sued Walgreens, the People have sought injunctive relief.
 7 *See* First Am. Compl., Prayer for Relief § D, Doc. 128. They still do. Any adequate remedy must
 8 require Walgreens to change its practices that have contributed—and continue to contribute—so
 9 substantially to the opioid epidemic in San Francisco. Given the extensive evidence the Court
 10 heard during the liability phase about Walgreens’ specific policy failures, the Court certainly has
 11 the authority to order that Walgreens change its practices now. *See* Doc. 1578 at 37-95.

12 None of the authority cited by Walgreens holds otherwise. The proposed injunction is no
 13 surprise; it has been presented, consensually, in essentially identical form to implement a prior
 14 Walgreens settlement, and Walgreens had a full opportunity to address it in Case Track Three.
 15 Nevertheless, the People recommend a brief pause to avoid the complications and potential delay
 16 associated with interlocutory appellate review.

17 An injunction is subject to immediate appeal as of right under 28 U.S.C. § 1292(a)(1).
 18 Walgreens has made every indication that it will appeal at its earliest opportunity.¹ The People
 19 expect that in appealing the Court’s proposed injunction, Walgreens will challenge its basis: the
 20 liability finding. The People further expect Walgreens would argue that, while an appeal is
 21 underway, this Court is deprived of jurisdiction to complete the remedial phase of the trial or that
 22 the remedial phase must be stayed pending appeal. It is unclear whether such arguments would
 23 carry the day, but the People respectfully suggest that the better course is to proceed swiftly to the
 24 abatement phase of this trial and bring this case to judgment and a final injunction.

25
 26
 27 ¹ *See, e.g.,* Juliet Williams, *Judge: Walgreens contributed to San Francisco opioid crisis*,
 28 Associated Press (Aug. 10, 2022), <https://apnews.com/article/health-san-francisco-opeioids-government-and-politics-cd45b148820f18df5ced3d2f7381d494> (“We look forward to the opportunity to . . . appeal.”).

1 DATED: September 2, 2022

Respectfully submitted,

2 LIEFF CABRASER HEIMANN & BERNSTEIN, LLP

3 /s/ Elizabeth Cabraser

4 Richard M. Heimann

Elizabeth J. Cabraser

5 Donald C. Arbitblit

Mark P. Chalos

6 Paulina do Amaral

Kevin R. Budner

7 Michael Levin-Gesundheit

Jacob H. Polin

8 Miriam E. Marks

Ian R. Bensberg

9 275 Battery Street, 29th Floor

San Francisco, California 94111-3339

10 Telephone: 415.956.1000

Facsimile: 415.956.1008

11 rheimann@lchb.com

12 David Chiu

City Attorney

13 Yvonne R. Mere

Sara J. Eisenberg

14 Jaime M. Huling Delaye

John H. George

15 Deputy City Attorneys

Fox Plaza

16 1390 Market Street, Sixth Floor

San Francisco, CA 94102

17 Telephone: 415.554.3957

18 jaime.hulingdelaye@sfcityatty.org

19 Aelish M. Baig

Taeva C. Shefler

20 Hadiya K. Deshmukh

ROBBINS GELLER RUDMAN & DOWD LLP

21 Post Montgomery Center

One Montgomery Street, Suite 1800

22 San Francisco, CA 94104

Telephone: 415/288-4545

23 415/288-4534 (fax)

24 aelishb@rgrdlaw.com

1 Paul J. Geller
2 Mark J. Dearman
3 Dorothy P. Antullis
4 Nicolle B. Brito
5 ROBBINS GELLER RUDMAN & DOWD LLP
6 120 East Palmetto Park Road, Suite 500
7 Boca Raton, FL 33432
8 Telephone: 561/750-3000
9 561/750-3364 (fax)
10 pgeller@rgrdlaw.com

11 X. Jay Alvarez
12 Thomas E. Egler
13 ROBBINS GELLER RUDMAN & DOWD LLP
14 655 West Broadway, Suite 1900
15 San Diego, CA 92101
16 Telephone: 619/231-1058
17 619/231-7423 (fax)
18 tome@rgrdlaw.com

19 Louise Renne
20 RENNE PUBLIC LAW GROUP
21 350 Sansome Street, Suite 300
22 San Francisco, CA 94104
23 Telephone: 415/848-7240
24 415/848-7230 (fax)
25 lrenne@publiclawgroup.com

26 Jennie Lee Anderson
27 Audrey Siegel
28 ANDRUS ANDERSON LLP
155 Montgomery Street, Suite 900
San Francisco, CA 94104
Telephone: 415/986-1400
415/986-1474 (fax)
jennie@andrusanderson.com

Kevin Sharp
SANFORD HEISLER SHARP, LLP
611 Commerce Street, Suite 3100
Nashville, TN 37203
Telephone: 615/434-7000
615/434-7020 (fax)
ksharp@sanfordheisler.com

Edward Chapin
SANFORD HEISLER SHARP, LLP
655 West Broadway, Suite 1700
San Diego, CA 92101
Telephone: 619/577-4253
619/577-4250 (fax)
echapin2@sanfordheisler.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

David S. Casey, Jr.
Gayle M. Blatt
Alyssa Williams
CASEY GERRY SCHENK FRANCAVILLA
BLATT & PENFIELD LLP
110 Laurel Street
San Diego, CA 92101-1486
Telephone: 619/238-1811
619/544-9232 (fax)
dcasey@cglaw.com
gmb@cglaw.com
awilliams@cglaw.com

Ellen Relkin
WEITZ & LUXENBERG P.C.
700 Broadway
New York, NY 10003
Telephone: 212/558-5500
212/344-5461 (fax)
erelkin@weitzlux.com

Melinda Davis Nokes
WEITZ & LUXENBERG P.C.
1880 Century Park East
Los Angeles, CA 90067
Telephone: 310/247-0921
310/786-9927 (fax)
mnokes@weitzlux.com

Paul F. Novak
Tiffany Ellis
WEITZ & LUXENBERG P.C.
1880 Century Park East
24th Floor, The Fisher Building
3011 W. Grand Boulevard
Detroit, Michigan 48202
Telephone: 313/800-4170
pnovak@weitzlux.com
tellis@weitzlux.com

*Attorneys for Plaintiff the People of the State of
California, acting by and through San Francisco City
Attorney David Chiu*

Jayne Conroy (*pro hac vice*)
Andrea Bierstein (*pro hac vice*)
Ellyn Hurd (*pro hac vice*)
Justin Presnal (*pro hac vice*)
Tom Sheridan (*pro hac vice*)
SIMMONS HANLY CONROY
112 Madison Avenue, 7th Floor
New York, NY 10016
(212) 784-6400
(212) 213-5949 (fax)
jconroy@simmonsfirm.com

Peter J. Mougey (*pro hac vice*)
Page A. Poerschke (*pro hac vice*)
Laura S. Dunning (*pro hac vice*)
Jeff Gaddy (*pro hac vice*)
LEVIN, PAPANTONIO, RAFFERTY, PROCTOR,
BUCHANAN, O'BRIEN, BARR & MOUGEY, P.A.
316 S. Baylen St., Ste. 600
Pensacola, FL 32502
(850) 435-7068
pmougey@levinlaw.com
ppoerschke@levinlaw.com
ldunning@levinlaw.com
jgaddy@levinlaw.com

MDL Co-Lead, Plaintiff Executive Committee Counsel